

The Corporation of the City of Kenora

By-law Number 161-2010

A By-law to Delegate Council's authority to acquire and dispose of land in certain circumstances, in the City of Kenora, District of Kenora

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Whereas Section 23.1 of the Municipal Act, 2001 provides that Municipal Council is authorized to delegate its powers and duties under this or any other Act to a person or body subject to any restrictions set out;

And Whereas Section 8 of the Municipal Act, 2001 grants to municipalities the powers of a natural person for many purposes, including the ownership and management of its real estate holdings.

Now Therefore The Corporation of the City of Kenora enacts as follows:

1. **Definitions:** Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in this Section. Where any word appears in ordinary case, its regularly applied meaning in the English language is intended.
 - a) "By-law" means this By-law, as it may be amended from time to time. The Recitals to this By-law are considered integral parts of it.
 - b) "City" means The Corporation of the City of Kenora.
 - c) "Council" means the elected Municipal Council for the City.
 - d) "CAO" means the Chief Administrative Officer.
 - e) "Municipal Act, 2001", means the provincial legislation cited as S.O. 2001, c.25, as amended from time to time, including successor legislation.
2. **Interpretation Rules:**
 - a) Wherever this By-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.
 - b) References to items in the plural include the singular, as applicable.
 - c) The word "include" is not to be read as limiting the phrases or descriptions that precede it.
3. **Severability:**

If a court or tribunal of competent jurisdiction declares any portion of this By-law to be illegal or unenforceable, that portion of this By-law will be considered to be severed from the balance of the By-law, which will continue to operate in full force.
4. **Delegation:**
 - i) **Land Sales and Easement Releases:**

The CAO is granted the authority to approve the method of sale of land, the sale of land, and the release of easements, and to execute all documentation to facilitate those land sales or easement releases. Before the CAO exercises the authority granted to him or her, he or she shall ensure that:

- a) With respect to a sale of land, Council has declared the subject property surplus to municipal needs;
 - b) With respect to a sale of land, the appraised value of the land is less than Two Hundred & Fifty Thousand (\$250,000.00) Dollars;
 - c) With respect to a sale of land, the price at which the land is being sold is eighty (80%) per cent or more of the appraised value of the land;
 - d) With respect to a release of easement, the City Department or the public utility for whom the easement operated, has confirmed to the CAO in writing that the easement is no longer required;
 - e) Notwithstanding clause 4(c) the following property may be sold for nominal value to the following transferees:
 - i. Kenora District Services Board-Ambulance Base – Fourteenth Street North
 - ii. Kenora District Catholic Separate School Board – Pinecrest Community Centre – Heenan Place
 - f) Notwithstanding clauses 4(b) and 4(c) the following property may be sold for more or less than Fair Market Value:
 - i. Firehall #1 – Second Street South
5. **Leases and Licences:** The CAO is granted the authority to enter into or terminate leases and licences, and to execute all documentation to facilitate those leases and licences. Before the CAO exercises the authority granted to him or her, he or she shall ensure that:
- a) The term of the lease or licence, including any optional renewal periods, is less than twenty-one (21) years;
 - b) The rent or licence fee payable is either at market rate or is set in accordance with approved Council policy; and
 - c) The total annual rent or licence fee payments do not exceed Twenty-Four Thousand (\$24,000.00) dollars.
6. **Assignment Requests:** The CAO is granted the authority to consent to assignment requests by any tenant of any lease or licence agreement with the City where the balance of time remaining in the term of the lease or licence is less than twenty-one (21) years (including any optional renewal periods).
7. **Renewal Requests:** The CAO is granted the authority to review and approve requests by any tenant to renew an existing lease or licence with the City. Before the CAO exercises the authority granted to him or her, he or she shall ensure that:
- a) The renewal term does not exceed twenty-one (21) years;
 - b) The only changes to the terms and conditions of the lease or licence that will be operative during the renewal term are (i) the amount of rent payable and (ii) the existence of any further rights to renew; and
 - c) The new rent or fee payable is at market rate or at a rate meeting approved Council policy.
8. **Land and Easement Acquisitions:** The CAO is granted the authority to purchase or otherwise acquire land or easement interests at nominal value. Where consideration is to be paid for the land or easement interest, the CAO is granted the authority to purchase or otherwise acquire the land or easement interests. Before the CAO exercises the authority granted to him or her to

purchase or acquire land interests for more than nominal consideration, he or she shall ensure that the acquisition was funded in an approved budget.

9. **Miscellaneous Realty Matters:** The CAO is granted the authority to review, approve and implement the following, and to execute all documentation required to implement same:
 - a) Publication or distribution of all required notices associated with real estate transactions in accordance with Council policy;
 - b) Consent and non-disturbance agreements;
 - c) Requests to enter City owned property for periods of time not exceeding four weeks for specific purposes;
 - d) Cautions, liens or restrictive covenants;
 - e) Documents required to correct title errors, upon the review and approval of the City Solicitor;
 - f) First registration applications for Land Titles;
 - g) Releases or discharges of liens paid or interests no longer required by the municipality, where the market value of the City's property interest is less than One Hundred Thousand (\$100,000.00) Dollars; and
 - h) Surrenders of expired agreements.
10. Pursuant to section 284.1 of the Municipal Act 2001, a review or appeal with respect to delegated decisions shall be made by the Council.
11. That this By-law shall come into force and be in effect from and after the final passing thereof.

By-Law read a First and Second Time this 8th day of September, 2010.

By-Law read a Third and Final Time this 8th day of September, 2010.

The Corporation of the City of Kenora:-

Leonard P. Compton, Mayor

Heather L. Kasprick, D/Clerk